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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 FEDERAL DEPOSIT INSURANCE
14 CORPORATION as Receiver for SONOMA
15 VALLEY BANK,

16 Plaintiff,

17 v.

18 MELVIN J. SWITZER, SEAN C. CUTTING,
19 and BRIAN MELLAND,

20 Defendants.

CASE NO.: 3:13-cv-03834-RS

**STIPULATION AND ORDER TO EXTEND
TIME TO RESPOND TO COMPLAINT
AND REQUEST FOR PRODUCTION SET
ONE UNTIL AFTER THIS COURT
ISSUES AN ORDER ON DEFENDANTS'
MOTION TO STAY THE CIVIL
PROCEEDING**

Courtroom 3, 17th Floor

21 TO THIS HONORABLE COURT:

22 Pursuant to Northern District Local Rule 6-1, the parties, through their respective counsel,
23 agree and stipulate as follows:

24 1. On August 19, 2013, plaintiff Federal Deposit Insurance Corporation as Receiver for
25 Sonoma Valley Bank ("FDIC-R") filed the Complaint for negligence, gross negligence, and breach
26 of fiduciary duty naming defendants Melvin J. Switzer, Sean C. Cutting ("Cutting") and Brian
27 Melland ("Melland"). Defendants brought Motions to Dismiss, which this Court denied by written
28 Order on April 9, 2012 providing defendants 20 days to answer the Complaint. Defendants'
Answers are currently due on April 29, 2014.

LAW OFFICES OF
GEARY,
SHEA,
O'DONNELL,
GRATTAN &
MITCHELL
P.C.

2. On March 28, 2014, FDIC-R served Requests for Production, Set One by email on all defendants. Defendants' responses are due May 1, 2014.

3. On April 9, 2014, the U.S. Attorney for the Northern District of California unsealed an indictment against Melland and Cutting, among others, filed in this Court on March 18, 2014 ("the Criminal Prosecution").

4. Defendants Melland and Cutting intend to file a Motion to Stay Civil Proceedings Pending Resolution of Criminal Prosecution ("Motion to Stay") on or before Tuesday, April 29, 2014. In the Motion to Stay, Melland and Cutting will request that all proceedings and discovery in this action be stayed pending the resolution of the Criminal Prosecution.

5. On this basis, the parties hereto agree and stipulate that Melland's and Cutting's time to answer the Complaint and respond to Request for Production, Set One shall be extended until such time as the Court rules on the Motion to Stay. If the Motion to Stay is denied and the civil action proceeds, Melland and Cutting agree to answer the Complaint and respond to Request for Production, Set One within ten (10) days after the Court issues its ruling denying the Motion to Stay.

6. Nothing in this Stipulation may be construed to waive or limit in any way any argument FDIC-R may advance in opposing the Motion to Stay.

7. The Motion to Extend Time filed by Melland and joined by Cutting is moot and maybe be terminated by the clerk.

IT IS SO STIPULATED.

DATED: April 24, 2014

GEARY, SHEA, O'DONNELL, GRATTAN & MITCHELL, P.C.

By /s/ Matthew K. Good
MATTHEW K. GOOD
Attorneys for Defendant
BRIAN MELLAND

LAW OFFICES OF
GEARY,
SHEA,
O'DONNELL,
GRATTAN &
MITCHELL
P.C.

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1 DATED: April 24, 2014

JONES DAY

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3 By /s/ Neal Stephens
4 NEAL STEPHENS
Attorneys for Defendant
SEAN C. CUTTING

5 DATED: April 24, 2014

SCHIFF HARDIN LLP

6
7 By /s/ Robert Mullen
8 ROBERT MULLEN
9 Attorneys for Plaintiff
10 FEDERAL DEPOSIT INSURANCE
CORPORATION AS RECEIVER FOR
SONOMA VALLEY BANK
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SHEA,
27 O'DONNELL,
GRATTAN &
MITCHELL
28 P.C.

ORDER OF THE COURT

After reviewing the parties' Stipulation, and good cause appearing, the Court hereby orders as follows:

Defendant Brian Melland and Sean Cutting's last day to respond to plaintiff's Complaint and respond to Request for Production, Set One is hereby extended to such time as the Court rules on their Motion(s) to Stay Civil Proceedings Pending Resolution of Criminal Prosecution. If the Motion to Stay is denied and the civil action proceeds, Melland and Cutting shall answer the Complaint and respond to Request for Production, Set One within ten (10) days after the Court issues its ruling denying the Motion to Stay.

Pursuant to stipulation, IT IS SO ORDERED.

DATED: 4/24/14



UNITED STATES DISTRICT COURT JUDGE